

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY C. CHUNG  
A.K.A. MARY CHIEN WEN CHUNG  
977 Holly Street  
San Carlos, CA 94070

Registered Nurse License No. 435292

Respondent

Case No. 2013-213

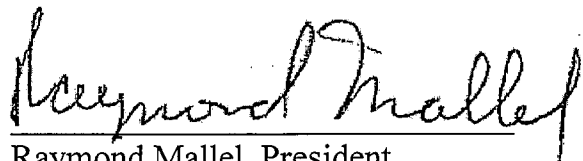
OAH No. 2012100783

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 24, 2013.

IT IS SO ORDERED May 24, 2013.



Raymond Malle, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-213

12 **MARY C. CHUNG**  
13 **aka MARY CHIEN WEN CHUNG**

OAH No. 2012100783

14 **977 Holly Street**  
**San Carlos, CA 94070**  
15 **Registered Nurse License No. 435292**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
18 proceeding that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board  
21 of Registered Nursing. She brought this action solely in her official capacity and is represented in  
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Judith J. Loach,  
23 Deputy Attorney General.

24 2. Mary C. Chung, aka Mary Chien Wen Chung ("Respondent") is represented in this  
25 proceeding by attorney Edgardo Gonzalez, Esq., whose address is 1300 Clay Street, Suite 600,  
26 Oakland, CA 94612.

27 3. On or about January 31, 1989, the Board of Registered Nursing issued Registered  
28 Nurse License No. 435292 to Respondent. The Registered Nurse License was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 2013-213 and will expire on  
2 April 30, 2014, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2013-213 was filed before the Board of Registered Nursing  
5 ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The  
6 Accusation and all other statutorily required documents were properly served on Respondent on  
7 September 26, 2012. Respondent timely filed her Notice of Defense contesting the Accusation.  
8 A copy of Accusation No. 2013-213 is attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. 2013-213. Respondent also has carefully read, fully  
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and  
13 Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
16 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
17 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
18 compel the attendance of witnesses and the production of documents; the right to reconsideration  
19 and court review of an adverse decision; and all other rights accorded by the California  
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22 every right set forth above.

23 CULPABILITY

24 8. Respondent understands and agrees that the charges in Accusation No. 2013-213, if  
25 proven at hearing constitute cause for imposing discipline on her Registered Nurse License.

26 9. For the purpose of resolving this matter without the expense and uncertainty of  
27 further proceedings, Respondent agrees that at a hearing, Complainant could establish a factual  
28 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest

1 those charges.

2 10. Respondent understands that by signing this stipulation she enables the Board to issue  
3 an order accepting the surrender of her Registered Nurse License without further process.

4 CONTINGENCY

5 11. This stipulation shall be subject to approval by the Board of Registered Nursing.  
6 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
7 Registered Nursing may communicate directly with the Board regarding this stipulation and  
8 surrender, without notice to or participation by Respondent or her counsel. By signing the  
9 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek  
10 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
11 to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary  
12 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
13 action between the parties, and the Board shall not be disqualified from further action by having  
14 considered this matter.

15 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
16 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
17 the originals.

18 13. This Stipulated Surrender of License and Order is intended by the parties to be an  
19 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
20 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
21 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
22 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
23 executed by an authorized representative of each of the parties.

24 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
25 the Board may, without further notice or formal proceeding, issue and enter the following Order:

26 ///

27 ///

28 ///

**ORDER**

IT IS HEREBY ORDERED that Registered Nurse License No. 435292, issued to Respondent Mary C. Chung, aka Mary Chien Wen Chung, is surrendered and accepted by the Board of Registered Nursing.

1. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

2. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2013-213 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$8,560.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2013-213 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

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///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully  
3 discussed it with my attorney, Edgardo Gonzalez, Esq. I understand the stipulation and the effect  
4 it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and  
5 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
6 of the Board of Registered Nursing.

7  
8 DATED: Jan 26, 2013 Mary C. Chung  
9 MARY C. CHUNG  
Respondent

10 I have read and fully discussed with Respondent Mary C. Chung the terms and conditions  
11 and other matters contained in this Stipulated Surrender of License and Order. I approve its form  
12 and content.

13 DATED: 2-4-13 Edgardo Gonzalez, Esq.  
14 EDGARDO GONZALEZ, ESQ.  
15 Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
18 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

19 Dated: 2-11-2013

Respectfully submitted,

20 KAMALA D. HARRIS  
21 Attorney General of California  
22 FRANK H. PACOE  
Supervising Deputy Attorney General

23 Judith J. Loach  
24 JUDITH J. LOACH  
25 Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**

**Accusation No. 2013-213**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-213*

13 **MARY C. CHUNG**  
14 **AKA MARY CHIEN WEN CHUNG**  
15 **977 Holly Street**  
16 **San Carlos, CA 94070**

**ACCUSATION**

17 **Registered Nurse License No. 435292**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about January 31, 1989, the Board of Registered Nursing issued Registered  
24 Nurse License Number 435292 to Mary C. Chung, aka Mary Chien Wen Chung ("Respondent").  
25 The Registered Nurse License was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on April 30, 2014, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing ("Board"),



1 Department of Consumer Affairs, under the authority of the following laws. All section  
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
4 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
6 Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
9 licensee or to render a decision imposing discipline on the license.

10 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
11 surrender and/or cancellation of a license shall not deprive the Board of jurisdiction to proceed  
12 with a disciplinary action during the period within which the license may be renewed, restored,  
13 reissued or reinstated.

#### 14 DISCIPLINARY STATUTES AND REGULATIONS

15 7. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an  
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
20 functions.

21 ...

22 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary  
23 action against a health care professional license or certificate by another state or territory of the  
24 United States, by another governmental agency, or by another California health care professional  
25 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of  
26 that action.

27 ..."

1           8.     California Code of Regulations, title 16, section 1442, states:

2           "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
3 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
4 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
5 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
6 situation which the nurse knew, or should have known, could have jeopardized the client's health  
7 or life."

8           9.     California Code of Regulations, title 16, section 1443, states:

9           "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
10 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
11 exercised by a competent registered nurse as described in Section 1443.5."

12          10.    California Code of Regulations, title 16, section 1443.5 states:

13          "A registered nurse shall be considered to be competent when he/she consistently  
14 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
15 sciences in applying the nursing process, as follows:

16          "(1) Formulates a nursing diagnosis through observation of the client's physical condition  
17 and behavior, and through interpretation of information obtained from the client and others,  
18 including the health team.

19          "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
20 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
21 for disease prevention and restorative measures.

22          "(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
23 treatment to the client and family and teaches the client and family how to care for the client's  
24 health needs.

25          "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
26 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
27 effectively supervises nursing care being given by subordinates.

28          "(5) Evaluates the effectiveness of the care plan through observation of the client's physical

1 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
2 communication with the client and health team members, and modifies the plan as needed.

3 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
4 health care or to change decisions or activities which are against the interests or wishes of the  
5 client, and by giving the client the opportunity to make informed decisions about health care  
6 before it is provided."

#### 7 COST RECOVERY

8 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licensee found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

#### 12 FACTUAL BACKGROUND

13 12. Respondent was employed as a Charge Nurse for the San Mateo County Medical  
14 Center, on the 3 A/B Inpatient Psychiatric Unit, San Mateo, California.

15 13. Between 3:00 to 4:00 a.m., on March 30, 2010, Respondent was informed that  
16 Patient RO ("RO"), a 27 year-old male was observed leaving the room of Patient AR ("AR"),  
17 a 23 year-old female and that AR was seen pulling up her pants after RO left her room.

18 14. Respondent failed to direct staff to interview and/or evaluate AR after the incident  
19 and /or failed to conduct her own interview/evaluation of AR.

20 15. At approximately 10:53 a.m., on March 30, 2010, AR reported to staff that she had  
21 been raped earlier in the morning and identified RO as her assailant. A medical examination  
22 confirmed that RO had sexual contact with AR.

#### 23 FIRST CAUSE FOR DISCIPLINE

24 (Incompetence -- Failure to Direct Assessment of AR)

25 16. Respondent is subject to disciplinary action for incompetence under Code section  
26 2761, subdivision (a)(1), as defined in title 16 of the Code of Regulations, sections 1443 and  
27 1443.5, in that she failed to direct nursing staff to evaluate AR upon being informed that RO was  
28 observed leaving her room and that AR was seen pulling up her pants. The facts in support of this

1 cause for discipline are set forth above in paragraph 12 through 15.

2 SECOND CAUSE FOR DISCIPLINE

3 (Incompetence -- Failure to Conduct Assessment of AR)

4 17. Respondent is subject to disciplinary action for unprofessional conduct under Code  
5 section 2761, subdivision (a)(1), as defined in title 16 of the Code of Regulations, sections 1443  
6 and 1443.5, in that she failed to evaluate AR upon being informed that RO was observed leaving  
7 her room and that AR was seen pulling up her pants. The facts in support of this cause for  
8 discipline are set forth above in paragraphs 12 through 15.

9 THIRD CAUSE FOR DISCIPLINE

10 (Gross Negligence -- Failure to Comply With Observation Protocols)

11 18. Respondent is subject to disciplinary action for unprofessional conduct under Code  
12 section 2761, subdivision (a)(1), as defined in title 16 of the Code of Regulations, section 1442, in  
13 that she failed to comply with and/or ensure that other staff complied with the Inpatient  
14 Psychiatric Unit patient observation protocols. The facts are as follows:

15 a. The Inpatient Psychiatric Unit protocols provided that at a minimum each patient was  
16 to be observed every 15 minutes with their location and activity/behavior being recorded on a  
17 document entitled "Observation Checklist." The staff member performing rounds was required to  
18 initial the Observation Checklist for the rounds they completed.

19 b. From 11:45 p.m., on March 29, 2010 up to 7:00 a.m., on March 30, 2010, staff  
20 member Hernandez was assigned to perform the 15 minute observation checks on all patients.  
21 However, at approximately 1:45 a.m., on March 30, 2010, Hernandez took a break, returning to  
22 the unit at approximately 2:45 a.m. Respondent then assumed responsibility for performing the  
23 15 minute observation checks. However, Respondent's initials did not appear on the Observation  
24 Checklist during the time she was relieving Hernandez.

25 FOURTH CAUSE FOR DISCIPLINE

26 (Discipline By Another Governmental Agency)

27 19. Respondent is subject to disciplinary action under Code section 2761, subdivision  
28 (a)(4), in that on August 16, 2010, she received a letter from the San Mateo County Medical

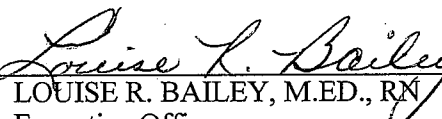
Center, citing "Dishonesty," "Disrespectful or discourteous conduct toward a county officer or official, another employee, or a member of the public," and "Failure to follow policy(ies) or work rule(s), or negligence in the performance of one's duties." The letter from Respondent's employer referenced its intent to dismiss her from her position as Charge Nurse effective August 31, 2010, based on the incident as set forth above in paragraphs 12 through 15 and 18.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 435292, issued to Mary C. Chung, aka Mary Chien Wen Chung;
2. Ordering Mary C. Chung, aka Mary Chien Wen Chung to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: September 26, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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